

**APPENDIX I**  
**CLAIMS PENDING AFTER AMENDMENT**

1                   21. (Twice Amended) A method of conferring resistance to pathogenic  
2 fungi on a plant using a DNA sequence encoding a member of the sarcotoxin 1 family or  
3 homolog thereof, the method comprising the steps of: transforming a plant cell by  
4 introducing the DNA sequence encoding the member of the sarcotoxin 1 family or  
5 homolog thereof; and regenerating the transformed plant cell into a transgenic plant  
6 expressing the member of the sarcotoxin 1 family or homolog thereof, wherein the DNA  
7 encoding the member of the sarcotoxin 1 family or homolog thereof is in an expression  
8 vector, wherein said expression vector comprises:

9                   i) an expression cassette comprising a first plant promoter induced by  
10 stress; and  
11                   ii) a second plant promoter which is constitutively expressed,  
12 wherein the first plant promoter and the second plant promoter are positioned adjacent to  
13 each other, and wherein the transgenic plant has enhanced resistance to pathogenic fungi  
14 as compared to a corresponding untransformed plant.

1                   22. The method according to claim 21, wherein the pathogenic fungi are  
2 *Rhizoctonia solani*, *Pythium aphanidermatum*, and *Phytophthora infestans*.

1                   23. (Amended) The method according to claim 21, wherein the member  
2 of the sarcotoxin 1 family or homolog thereof is sarcotoxin 1a.

1                   24. (Thrice amended) The method according to claim 21, wherein said  
2 expression vector comprises:

3                   i) the expression cassette comprising the DNA sequence encoding the  
4 member of the sarcotoxin 1 family or homolog thereof operably linked to  
5 the first plant promoter; and  
6                   ii) a drug resistance gene operably linked to the second plant promoter.

1                   25. (Amended) The method according to claim 21, wherein the DNA  
2 sequence encoding the member of the sarcotoxin 1 family or homolog thereof is operably  
3 linked to a plant gene via the hinge region of a tobacco chitinase gene.

1                   26. (Amended) The method according to claim 21, wherein the DNA  
2 sequence encoding the member of the sarcotoxin 1 family or homolog thereof is operably  
3 linked to a signal sequence from a plant gene.

1                   29. (Amended) The method according to claim 21, wherein the promoter  
2 induced by stress is the promoter of the tobacco PR-1a gene.

1                   30. (Amended) The method according to claim 24, wherein the  
2 expression cassette further comprises the terminator of the tobacco PR-1a gene operably  
3 linked downstream of the DNA sequence encoding the member of the sarcotoxin 1  
4 family or homolog thereof.

1                   31. (Amended) The method according to claim 21, wherein the second  
2 plant promoter is the cauliflower mosaic virus 35S promoter.

1                   32. (Twice Amended) A plant which confers resistance to pathogenic  
2 fungi, the plant comprising an expression vector, wherein the expression vector  
3 comprises:

- 4                   i) an expression cassette comprising a DNA sequence encoding a member  
5 of the sarcotoxin 1 family or homolog thereof operably linked to a  
6 promoter induced by stress; and  
7                   ii) a drug resistance gene operably linked to a constitutively expressed  
8 promoter,

9 wherein the promoter induced by stress and the constitutively expressed promoter are  
10 positioned adjacent to each other, wherein the transgenic plant has enhanced resistance to  
11 pathogenic fungi as compared to a corresponding untransformed plant.

1                   33. The plant according to claim 32, wherein the pathogenic fungi are  
2   *Rhizoctonia solani*, *Pythium aphanidermatum*, and *Phytophthora infestans*.

1                   34. (Amended) The plant according to claim 32, wherein the member of  
2   the sarcotoxin 1 family or homolog thereof is sarcotoxin 1a.

1                   35. (Amended) The plant according to claim 32, wherein the DNA  
2   sequence encoding the member of the sarcotoxin 1 family or homolog thereof is operably  
3   linked to a plant gene via the hinge region of a tobacco chitinase gene.

1                   36. (Amended) The plant according to claim 32, wherein the DNA  
2   sequence encoding the member of the sarcotoxin 1 family or homolog thereof is operably  
3   linked to a signal sequence from a plant gene.

1                   38. (Amended) The plant according to claim 32, wherein the promoter  
2   induced by stress is the promoter of the tobacco PR-1a gene.

1                   39. (Amended) The plant according to claim 32, wherein the expression  
2   cassette further comprises the terminator of the tobacco PR-1a gene operably linked  
3   downstream of the DNA sequence encoding the member of the sarcotoxin 1 family or  
4   homolog thereof.

1                   40. The plant according to claim 32, wherein the constitutively expressed  
2   promoter is the cauliflower mosaic virus 35S promoter.

1                   41. The plant according to claim 32, wherein the expression vector further  
2   comprises a T-DNA region and a drug resistance gene.